

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER ROBERT LUTE,

Plaintiff,

v.

E. SILVA, et al.,

Defendants.

Case No. 1:20-cv-01122-CDB (PC)

**ORDER REGARDING STATUS REPORT
FILED AUGUST 21, 2024**

**ORDER VACATING REMAINING
DEADLINES IN THE DISCOVERY AND
SCHEDULING ORDER**

Plaintiff Christopher Robert Lute is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's Eighth Amendment excessive force claims against Defendants E. Moreno, A. Randolph, E. Romero and O. Valladolid.

I. INTRODUCTION

A Discovery and Scheduling Order issued in this matter on January 2, 2024. (Doc. 47.)

On January 10, 2024, Defendants filed a Motion to Stay Civil Action Pending Resolution of State Criminal Proceeding Against Plaintiff. (Doc. 49.) Plaintiff did not oppose the motion.

On February 2, 2024, the Court issued its Order Granting Defendants' Motion to Stay Action. (Doc. 50.) Specifically, the Court ordered this action stayed pending resolution of Plaintiff's criminal case. (*Id.* at 4-6.) Defendants were ordered to file a status report commencing

March 1, 2024, and every 60 days thereafter, until the criminal proceedings were resolved. (*Id.* at 7.)

On February 28, 2024, following the consent of all parties, this matter was reassigned to the undersigned for all further proceedings. (Doc. 51.)

On February 29, 2024, Defendants filed a status report indicating the criminal proceedings had not yet resolved. (Doc. 52.)

On March 4, 2024,¹ Plaintiff filed a document titled “1) Plaintiffs Declaration for Motion to Amend and Request for Protective Order; 2) Order to Disclose Recent Serious Head Inquiry from in Custody Assaults” (Doc. 53) and another titled “Motion for Leave to Remove E. Silva from Amended Complaint. Rule 15(a)” (Doc. 54).

Defendants filed status reports on April 29, 2024, July 1, 2024, and August 21, 2024, indicating the criminal proceedings had not yet resolved. (Docs. 57, 59, 60.)

II. DISCUSSION

In the August 21, 2024, status report, Defendants state a trial setting conference in the Kings County Superior Court criminal matter originally scheduled for August 19, 2024, was continued to October 23, 2024. (Doc. 60 at 2.) Further, Defendants request that the Court vacate any deadlines in this action, including the discovery deadline of September 2, 2024, and dispositive motion deadline of November 12, 2024, considering the present stay of this action, and ask the Court to reset those deadlines after any stay is lifted. (*Id.*)

III. CONCLUSION AND ORDER

Accordingly, good cause appearing, the Court hereby **ORDERS**:

1. The remaining deadlines provided for in the Discovery and Scheduling Order issued January 2, 2024 (Doc. 47) are **VACATED**. The Court will reset any discovery and scheduling deadlines when the stay of this action has been lifted and pending

¹ These pleadings were filed weeks after the Court issued its order staying this matter pending resolution of the state criminal case. The pleadings will be addressed after the stay has been lifted. Notably, a brief review of the pleadings reveals the content concerns actions involving individuals other than the named defendants in this action and years after the events giving rise to Plaintiff’s claims in this action. Further, as the docket reflects, Defendant E. Silva was terminated as a defendant in this action on June 28, 2021, which corresponds to the filing of Plaintiff’s first amended complaint.

1 resolution of the criminal proceedings in Kings County Superior Court case number
2 20CMS-1757;

- 3 2. Defendants **SHALL** continue to file a status report every 60 days as previously
4 ordered.

5 IT IS SO ORDERED.

6 Dated: **August 22, 2024**

7 
UNITED STATES MAGISTRATE JUDGE